

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COMMENTS OF THE CITY OF BEVERLY HILLS

These Comments are filed by the City of Beverly Hills in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, Beverly Hills believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

The City of Beverly Hills has a population of 33,784¹. Our franchised cable provider is Adelphia Communications, but will soon be Time Warner as our City Council recently approved the change of control and franchise transfer proposed by these two cable operators. Our community has negotiated and approved cable franchises, renewals and transfers since 1971. The City has never denied a cable franchise to an applicant.

Our current franchise began in 1987 and is on a month-to-month extension basis due to Adelphia's bankruptcy proceedings. Adelphia has upgraded the cable system and has aggressively offered new services to our community. We have sufficient local channels to satisfy the needs of our community; however the City and the School District equipment and facilities are outdated and under funded. The City will begin franchise renewal negotiations as soon as Time Warner is ready to meet in order to address the community's future needs and interests.

Current Franchise Provisions

Our franchise requires a franchise fee of 5% of the cable operator's gross revenues payable to the City on a quarterly basis.

¹ Information from the 2000 U.S. population census.

The City requires the cable operator to provide channel capacity for public, educational, and/or governmental access channels on the cable system. We currently have one channel devoted to public access (shared regionally throughout Beverly Hills, Santa Monica, areas of Los Angeles, and West Hollywood); two channels dedicated to educational access supported by the Beverly Hills Unified School District; and three channels allocated towards government access programming (One of the channels airs C-SPAN II full time since the cable operator has not allocated a channel to carry the service).

Our franchise contains provisions requiring capability of video programming insertion into the cable system from various locations in the City (Civic Center campus including City Hall, Beverly Hills Public Library, Roxbury Park, Beverly Hills High School, Beverly Vista School, El Rodeo School, Hawthorne School, and Horace Mann School). We are able to cablecast City Council and School Board meetings live allowing the community active participation in local government and its educational system. The City also uses the insertion points to distribute the two educational channels and two government channels into the cable system.

Our franchise contains an emergency alert provision. The City has the ability through the Emergency Override System to initiate and deliver an emergency message to all cable channels in the event of a local emergency. Customized messages for an earthquake, civil unrest, flooding, etc can be transmitted or viewers can be referred to the government access for further instructions. We have coordinated this policy with the cable operator and the City's first responders.

Our franchise requires cable service being provided to the entire City with reasonable construction extension provisions for the cable operator.

Competitive Cable Systems

Our community:

- Was approached by RCN. The company submitted an application for a cable TV franchise in October 2000. The City extended every effort to negotiate and respond to RCN during the negotiating period. Negotiation sessions with RCN occurred during January, April, and May of 2001. RCN entered into good faith negotiations on provisions comparable to the City's existing cable TV franchise provisions relative to franchise fee payments, build out requirements and an emergency alert system. RCN proposed commitments to provide PEG access capacity, services, facilities, and equipment. Additionally, RCN was prepared to enter into a joint undergrounding project with the City involving installation of conduit in connection with the upgrade of the City's underground public facilities and had developed engineering maps, in conjunction with the City for the undergrounding. In October of 2001 citing financial setbacks, RCN notified the City that the company was suspending negotiations for a cable TV franchise.
- Was approached by Western Integrated Networks of California in August of 2000, but the provider chose not to enter into any formal negotiations.
- Has actively sought out competitive providers, but has not been successful.
- Has not denied any provider the opportunity to serve in our community.

- Have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

Conclusions

The local cable franchising process functions well in the City of Beverly Hills. As the above information demonstrates, we are experienced and successful at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks, local emergency alerts, and other cable related benefits) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Beverly Hills respectfully requests that the Commission not further restrict local government authority over cable franchising or otherwise impair the operation of the local franchising process as provided under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

City of Beverly Hills

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